

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**ROBERT G. MARCELLUS et al.,**

**Plaintiffs,**

**v.**

**Civil Action No. 3:15-cv-481**

**VIRGINIA STATE BOARD OF ELECTIONS et al.,**

**Defendants.**

**PLAINTIFFS' OBJECTIONS TO DEFENDANTS'  
DISCOVERY AND SCHEDULING REPORT**

Plaintiffs submit the following objections to the Defendants' Discovery and Scheduling Report:

At a September 16, 2015, conference, counsel for the parties agreed that there were no material facts in dispute and that cross-motions for summary judgment would be appropriate. They further agreed that the parties would prepare updated stipulations and offer no additional evidence, except that Defendants would submit additional evidence of the number of federal employees residing in the Commonwealth. Following the conference, Defendants' counsel advised Plaintiffs' counsel that the Defendants reserved the right to go in a different direction and would offer additional evidence beyond the number of federal employees in Virginia. Defendants declined to identify the declarant or declarants on whom they intended to rely or the substance of their declarations other than that the declaration(s) might describe an exemplar locality for whom the ability of federal employees to serve is a significant issue locally. Defendants did not agree that they would be limited to that specific, additional evidence.

Under the circumstances, it would mislead the Court to represent at this point that there are no material facts in dispute, at least until the parties file their initial Rule 26 reports. Until the Plaintiffs are able to determine what evidence the Defendants will offer in support of their Motion for Summary Judgement or otherwise in opposition to Plaintiffs' Cross-Motion for Summary Judgment, they are unwilling to forego their right to discovery.

Plaintiffs agree to the terms set forth in paragraphs 1 through 7 of Defendants' Discovery and Scheduling Report with the reservation of their right to conduct discovery, if necessary, dependent on the Defendants' disclosures as described in paragraph 3 of that report.

Respectfully submitted,

ROBERT G. MARCELLUS  
DAVID WILLIAMS  
BARRY HODGE  
TIMOTHY GRESHAM  
POWHATAN COUNTY  
REPUBLICAN COMMITTEE

/s/

By \_\_\_\_\_  
Patrick M. McSweeney (VSB No. 5669)  
McSWEENEY, CYNKAR &  
KACHOUROFF, PLLC  
3358 John Tree Hill Road  
Powhatan, Virginia 23139  
Tel. (804) 937-0895  
Fax (703) 365-9593  
*Patrick@mck-lawyers.com*

Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

I certify that on October 1, 2015, I electronically filed the foregoing with the Clerk of the District Court using the CM/EMF system. Counsel of record are served by that system.

/s/

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Patrick M. McSweeney